

WESTERN DIVISION

Plaintiff,

STATE OF NORTH CAROLINA,

ORDER

DISCUSSION

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Cir.1983). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff, who is incarcerated, filed a complaint asserting claims for injunctive and monetary relief against the State of North Carolina, asserting that defendant violated his civil rights and federal anti-trust law in the course of his arrest and prosecution in four criminal matters pending in North Carolina Superior Court. Plaintiff seeks an order dismissing the criminal proceedings and seeks monetary damages.

Under 28 U.S.C. § 1915A, the court may dismiss an action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. A case is “frivolous” if it lacks an arguable basis in either law or fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989).

Upon careful review of the record and the M&R, finding no clear error, the court adopts the cogent analysis contained in the M&R. Plaintiff’s claims for injunctive relief impacting his state criminal proceedings must be dismissed pursuant to Younger v. Harris, 401 U.S. 37 (1971). See Nivens v. Gilchrist, 319 F.3d 151, 152 (4th Cir. 2003). Plaintiff’s claims against the State of North Carolina must be dismissed because the State of North Carolina is not amenable to suit under 42 U.S.C. § 1983, and because plaintiff has not alleged factual allegations supporting a claim based upon violations of antitrust law.

CONCLUSION

Based on the foregoing, upon de novo review of the record and the recommendation in the M&R, the court ADOPTS the recommendation of the magistrate judge, and plaintiff’s action is DISMISSED pursuant to 28 U.S.C. § 1915A. The clerk is directed to close this case.

SO ORDERED, this the 20th day of May, 2015.



LOUISE W. FLANAGAN
United States District Judge